

# EXHIBIT L

IN THE MATTER OF: N.S. o/b/o W.F. v.  
STURGIS PUBLIC SCHOOLS, DOCKET NO.: 22-  
011246, HEARING VOLUME III

October 19, 2022

Prepared by



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STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of:	Docket No.:	22-011246
N.S. o/b/o W.F.,	Case No.:	DP-22-0043
Petitioner,	Agency:	Education
v	Case Type:	ED Sp Ed Regular
Sturgis Public Schools,	Filing Type:	Appeal
Respondent.		
	/	

HEARING - VOL. III

BEFORE LINDSAY WILSON, ADMINISTRATIVE LAW JUDGE

Via Zoom Video Conference

Wednesday, October 19, 2022, 9:00 a.m.

APPEARANCES:

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Also Present:	N.S., Nicole Gittinger

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1 here?

2 **A So at that time she's showing that there was no goals for**

3 **him to work on for speech during that particular time.**

4 Q Okay. And I see your name here.

5 **A Yes.**

6 Q What does that reflect?

7 **A So that reflects that I am part of his IEP team, so that I**

8 **was one of the pers- -- one of the individuals that would be**

9 **providing him service in the virtual setting.**

10 Q Okay. And is this the MDE-required language?

11 **A Yes; yes, it is.**

12 Q Okay. And that's all there is to this document; correct?

13 It's a short document?

14 **A Yes; yes.**

15 Q Okay. So when we look at -- there's a couple of IEPs. I'm

16 going to ask you about Exhibit E as in earth.

17 (Counsel shares exhibit via video)

18 Q What is the date of this IEP amendment?

19 **A So this amendment date would have been on October 13th,**

20 **2020, starting October 15th.**

21 Q Okay. And what is the reflected purpose?

22 **A So you would have to scroll down. So it says the purpose is**

23 **to add or delete or modify. So then if you would scroll**

24 **down for me? Up a little bit more. Too far.**

25 Q That one?

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1 **A Yes, where it says "Rationale." The reason for this**

2 **amendment is because at that time when we needed the CLP, we**

3 **would have to make an amendment note in the IEP showing that**

4 **we had made a change for the CLP.**

5 Q Okay.

6 **A And that could be something as simple as we changed a date.**

7 Q Okay. So it's not going to be reflected in the amendment

8 beyond that?

9 **A Right.**

10 Q And then the CLP was attached to these amendments in your

11 system?

12 **A The CLP is its own area of the system, but they're both**

13 **accessed to people in the same system that we use to record**

14 **special ed documents.**

15 Q Okay.

16 **A I mean, have -- these are both in the student's files.**

17 Q Now, would these IEP amendments have been provided to

18 parent?

19 **A Yes. They were mailed out.**

20 Q Did you do that?

21 **A Yes. I dropped it in the mail and then where it went from**

22 **the mail cart is beyond me.**

23 Q Okay. All right. Let me have you take a look -- oh, I'm

24 sorry. This is the notice you provided to parent with the

25 IEP amendment?

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1 **A Yup.**

2 Q Okay.

3 (Counsel shares exhibit via video)

4 Q And Exhibit F, what is this document?

5 **A Another amendment to his IEP for the space on the CLP. The**

6 **date was 10/21/20 for this one.**

7 Q Okay. And same indication here or close to it?

8 **A Yes.**

9 Q Would you have also notified parent of this amendment to the

10 CLP?

11 **A Yes.**

12 Q Is this the notice that you created?

13 **A Yes; yes. That is the notice -- that is the notice that's**

14 **pre-created in the system and then the "Options and other**

15 **factors considered" section is where I update. And so we**

16 **had talked about the possibility of a virtual life skills**

17 **class or a virtual emotional wellness class in order to**

18 **offer him support for classes.**

19 Q And what was the result of that? What did you decide to do?

20 **A At that time because he was staying virtual we didn't go**

21 **through with any of this because he was doing so well with**

22 **the stuff he was doing at home so we didn't need to offer**

23 **those classes.**

24 Q Okay. And what was your role beyond helping with the

25 documents? What was your role with student for 2021?

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1 **A So for him I facilitated his virtual classes through the**

2 **Odysseyware program. So I would log into (inaudible)**

3 **Odysseyware when he needed help or when he would join me for**

4 **a Google Meet. I would also update his grades in**

5 **Odysseyware to make sure that he's doing his work and turn**

6 **those grades in to the district so that we could log the**

7 **progress he had made.**

8 Q And was there a requirement for when or how many times

9 student was to access Odysseyware?

10 **A The district requirement was the students were to log on**

11 **every day during school hours. And for my personal**

12 **requirement, I required a check in every day if possible,**

13 **but I was willing to work with him if he wasn't able to**

14 **check in every day to meet his needs and his availability.**

15 **We did a lot of flexibility with our special ed students**

16 **that were virtual to make sure we were meeting their needs.**

17 Q And how often do you think student checked in or contacted

18 you for virtual contact?

19 **A I had my Google Meet open every day during set times, but he**

20 **would check in once, twice a month, not very frequently.**

21 Q Okay. I'm going to ask you to look at another exhibit.

22 (Counsel shares exhibit via video)

23 Q Okay. So, Ms. Richardson, these are text messages produced

24 by parent and her counsel that I am told are dated -- what

25 are these? -- August of -- no, I'm sorry -- January of 2021.

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9 (Pages 517 to 520)

1 **A Yeah. The bottom one is January of 2021.**  
2 Q Okay. So just take a look at this. I think we can easily  
3 tell you because you say, "Hey, N.S., it's Stacey." Does  
4 that look like you?  
5 **A Yes, that looks like me.**  
6 Q Okay. Any reason that you're aware of that there is a gap  
7 between October of 2020 and January of '21?  
8 **A No reason that I'm aware of.**  
9 Q Were you in regular contact with parent --  
10 **A Yes.**  
11 Q -- 2020-21?  
12 **A Yes, I was.**  
13 Q Okay. So best of your knowledge there was not a three or  
14 four month gap in your communication?  
15 **A No.**  
16 Q All right. Okay. This is -- hold on. I'm going to blow it  
17 up a little. I know it gets hard to see.  
18 **A Uh-huh (affirmative).**  
19 Q I can't see this up top. Do you have any idea what that is?  
20 **A Yes. So that is a screenshot of his, the end of his NWEA**  
21 **test. So at the end when the students are finished with**  
22 **their NWEA, it comes up with a score that they received at**  
23 **the very top which it's in the centered part of it and I**  
24 **believe it says, like, "overall score."**  
25 Q Okay.

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1 **A So right where your cursor was. And then it's a breakdown**  
2 **of each of the different areas of focus over the test and it**  
3 **gives a score they got in that area and then the range score**  
4 **for where the margin of error could be.**  
5 Q Okay. And what are you relaying to mom in the text message  
6 below that?  
7 **A So that test would have been for math then based on the text**  
8 **and I told her that from the previous test he took he made a**  
9 **six point growth. And he always would tell me things like**  
10 **math was too hard and the scores that he gave based on my**  
11 **level of exclamation points showed that he was in the range**  
12 **of what we would consider and the students we would place in**  
13 **an advanced level math class, so instead of in the grade**  
14 **level math.**  
15 Q Okay. So in your opinion, how did student do academically  
16 this school year, 2021?  
17 **A That school year --**  
18 Q Yeah.  
19 **A -- he did, in my personal opinion, he did an amazing job.**  
20 **He worked very hard on the work that he was doing and his**  
21 **academic growth and efforts show that he did a great job**  
22 **during that.**  
23 Q Okay. And how was he provided with his education and  
24 services via Odysseyware? How many classes did he have?  
25 **A So he had two classes per semester. The way the special ed**

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1 **was set up was they had four classes total for the year. We**  
2 **split it two for first semester and two for second so that**  
3 **way it wasn't overwhelming and it was easier for them to**  
4 **work on their work independently and for us to help them**  
5 **focus on just specific classes as opposed to all four core**  
6 **subjects.**  
7 Q Okay. And were assignments, the completion of assignments,  
8 was that monitored on Odysseyware?  
9 **A I'm sorry. Will you repeat that question?**  
10 Q Completion of assignments by the students, was that  
11 something you could monitor?  
12 **A Yes. So we would be able to see when they finished the**  
13 **assignment. It would tell us on our end "completed" or it**  
14 **would say they were "in progress."**  
15 Q Okay. And was student required to meet with you?  
16 **A Yes, he was.**  
17 Q Did he?  
18 **A Not on a regular basis, no.**  
19 Q Were there parameters around when he would be able to meet  
20 with you?  
21 **A My goal for him was to meet with me during the school hours.**  
22 **So from the start of the school day 'til the end of the**  
23 **school day. I did have a set time and I don't remember the**  
24 **exact time it was, but I did have a set window every day --**  
25 **I believe it was during my planning hour -- that I had**

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1 **devoted specifically to him so that way no other students**  
2 **would be in the room and we could be one-on-one focus.**  
3 Q Okay. But he did not regularly come to that?  
4 **A No.**  
5 Q Did you notify parent every day when he didn't show up?  
6 **A I gave it some time because I knew that mom's work schedule**  
7 **had her not always available and she would let me know if**  
8 **that was the case. So I tried to update frequently if he**  
9 **hadn't shown up for in a couple of days, or if I noticed he**  
10 **hadn't done any work.**  
11 Q Okay. Are you aware if student also had social work  
12 services made available for 2020-21?  
13 **A I do know that the social work was available at that time.**  
14 **The social worker, Mr. Ben Karle, had a group setting that**  
15 **he did where he did Google Meets for groups of students to**  
16 **get together and work through the SEL, their social**  
17 **emotional learning together and he also offered one-on-ones.**  
18 Q Do you know if student attended any of those groups?  
19 **A I am not aware that he attended any. I know that the**  
20 **student did not like Mr. Karle so he had rubbed him the**  
21 **wrong way, if you will. So he didn't attend those meetings**  
22 **that I'm aware of.**  
23 Q So he declined the services because he didn't like the  
24 provider?  
25 **A Yes.**

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10 (Pages 521 to 524)

<p>1 Q Are there multiple related services providers available in</p> <p>2 Sturgis?</p> <p>3 <b>A The districts have one as far as I know from the ISD for</b></p> <p>4 <b>each of the different grade -- or school levels. So, like,</b></p> <p>5 <b>elementary has a different social worker than the middle</b></p> <p>6 <b>school level would have, so that was the middle school</b></p> <p>7 <b>social worker.</b></p> <p>8 Q And provided by the ISD?</p> <p>9 <b>A Yes.</b></p> <p>10 Q Okay. Let me get to Exhibit U.</p> <p>11 (Counsel shares exhibit via video)</p> <p>12 Q Respondent's Exhibit U, what is this document?</p> <p>13 <b>A So this is a progress report. Those are sent out on a</b></p> <p>14 <b>quarterly basis to the family to show the progress that a</b></p> <p>15 <b>student's made on their IEP goals.</b></p> <p>16 Q Okay. And did you send these out for this school year?</p> <p>17 <b>A No. Based on the date of this one, that would have been</b></p> <p>18 <b>sent out by Karel Grundlach.</b></p> <p>19 Q Okay. Based on this date?</p> <p>20 <b>A Yes.</b></p> <p>21 Q Okay. Because she was still the special ed provider at that</p> <p>22 point?</p> <p>23 <b>A Yes.</b></p> <p>24 Q Okay. Let me get -- all right. Now, what about that date?</p> <p>25 <b>A That one --</b></p> <p style="text-align: center;">Page 525</p>	<p>1 <b>A Yes.</b></p> <p>2 Q Okay. All right.</p> <p>3 (Counsel shares exhibit via video)</p> <p>4 Q And Exhibit G, what date is this IEP?</p> <p>5 <b>A So this IEP was held on April 14th, 2021, and it would have</b></p> <p>6 <b>went into effect April 16th was the publish day.</b></p> <p>7 Q He was still virtual at this point?</p> <p>8 <b>A Yes. This was the end of the 2020-2021 school year.</b></p> <p>9 Q Were you -- I'm sorry. Did you attend this one?</p> <p>10 <b>A I did.</b></p> <p>11 Q Okay. Do you recall if this was prepared with an eye</p> <p>12 towards keeping him virtual versus returning to in person?</p> <p>13 <b>A Yes. So this IEP was made because at the time it wasn't --</b></p> <p>14 <b>the district wasn't sure or we weren't sure whether we were</b></p> <p>15 <b>going to allow virtual for the following year. So this IEP</b></p> <p>16 <b>was written because he was in the virtual setting and the</b></p> <p>17 <b>plan at the time was to try to continue him for the</b></p> <p>18 <b>following school year in virtual if available.</b></p> <p>19 Q Okay. And hold on one second. Let me pull down here. Now,</p> <p>20 are these need areas, the ones that are checked, was this</p> <p>21 assessed at this IEP?</p> <p>22 <b>A Yes. So the need shows the area that we see that he has a</b></p> <p>23 <b>concern or an area that we want him to work on.</b></p> <p>24 <b>(Off the record interruption)</b></p> <p>25 THE WITNESS: There's going to be another bell in</p> <p style="text-align: center;">Page 527</p>
<p>1 <b>(Off the record interruption)</b></p> <p>2 Q Okay.</p> <p>3 <b>A Hang on just a second.</b></p> <p>4 Q Yup.</p> <p>5 <b>A The bell. They're changing classes. That date would have</b></p> <p>6 <b>been me.</b></p> <p>7 Q Okay. So you would have completed this particular progress</p> <p>8 comment?</p> <p>9 <b>A Yes.</b></p> <p>10 Q And tell me how student was doing based on this report.</p> <p>11 <b>A So based on this report I show that he was making growth.</b></p> <p>12 Q Okay. And how did you provide progress reports to parent?</p> <p>13 <b>A They were mailed and if they didn't get sent in the mail,</b></p> <p>14 <b>then I would e-mail.</b></p> <p>15 Q Okay. Now why is there only progress reported on one goal?</p> <p>16 <b>A Because he as a EI student which is an emotional impairment</b></p> <p>17 <b>student only has one goal academically because that was his</b></p> <p>18 <b>lowest area of need. His other goals would be related to</b></p> <p>19 <b>social work or his emotional area. But for me, in special</b></p> <p>20 <b>ed, my goals were written based on an academic area that he</b></p> <p>21 <b>needed and this was just his area where he was lower.</b></p> <p>22 Q Okay. And you believe he made progress on the academic</p> <p>23 goal?</p> <p>24 <b>A I do.</b></p> <p>25 Q And he declined the social/emotional services?</p> <p style="text-align: center;">Page 526</p>	<p>1 about 48 seconds.</p> <p>2 MS. WALZ: Okay.</p> <p>3 <b>A So, but this is his area of need and so this one would talk</b></p> <p>4 <b>about -- it would reiterate the strengths from the previous</b></p> <p>5 <b>page and then talk about whether we can show improvement.</b></p> <p>6 <b>And for this it talks about his improvement starting at the</b></p> <p>7 <b>words "based on student's NWEA score."</b></p> <p>8 Q Okay. And so as an EI student, this would be the academic</p> <p>9 goal; is that what I hear?</p> <p>10 <b>A Uh-huh; yes.</b></p> <p>11 Q Okay. And any other goals would be social/emotional?</p> <p>12 <b>A Yup.</b></p> <p>13 Q Okay. And, now, why are all of these boxes checked?</p> <p>14 <b>A Because those are considered not an area that he is needing</b></p> <p>15 <b>support.</b></p> <p>16 Q But we know he needs academic.</p> <p>17 <b>A There is more than one academic box that's available, but if</b></p> <p>18 <b>they only have -- I believe there's two on the pre-set.</b></p> <p>19 Q Okay.</p> <p>20 <b>A But he only had one academic area of need so that's why the</b></p> <p>21 <b>second one is not checked.</b></p> <p>22 MS. ABDNOUR: I'm sorry to interrupt. Can we</p> <p>23 clarify what exhibit this is? I just can't see it anywhere.</p> <p>24 JUDGE WILSON: Respondent Exhibit G.</p> <p>25 MS. WALZ: Exhibit G.</p> <p style="text-align: center;">Page 528</p>

<p>1 <b>A Yeah. It would have been, I believe, sometime around the</b></p> <p>2 <b>third week of September.</b></p> <p>3 Q Okay. Let's go down to the 25th. Why are you reporting</p> <p>4 subs to mom?</p> <p>5 <b>A So part of W.F.'s behavior plan is that if there is a sub he</b></p> <p>6 <b>is -- that we notify mom so in case that there's an issue</b></p> <p>7 <b>with substitute teacher, he doesn't always -- or, sorry,</b></p> <p>8 <b>student doesn't always follow the rules with subs and can be</b></p> <p>9 <b>disrespectful to subs. So we let mom know there's a sub</b></p> <p>10 <b>just in case there is an issue so she can be made aware if</b></p> <p>11 <b>she needs to come in and help to talk him through what</b></p> <p>12 <b>happened or process in a way that's going to work for him.</b></p> <p>13 Q Okay. And that's what you're advising her of the --</p> <p>14 <b>A Yes. There was multiple subs that day and out of his eight</b></p> <p>15 <b>classes, three of them were substitutes.</b></p> <p>16 Q Okay. Let me go down here. What did you run into on the</p> <p>17 meeting scheduling saga?</p> <p>18 <b>A State required NWEA testing was during that same time so</b></p> <p>19 <b>teachers weren't available to miss any time for the meeting</b></p> <p>20 <b>because the state test -- we did our testing first hour</b></p> <p>21 <b>which that time school started around 7:20, 7:25-ish. So we</b></p> <p>22 <b>weren't able to have the meeting that day.</b></p> <p>23 Q And was the scheduling of NWEA testing at that time on that</p> <p>24 day new information to you at that point?</p> <p>25 <b>A It was to me, yes.</b></p> <p style="text-align: center;">Page 541</p>	<p>1 him. However, students can opt to not listen to it. We</p> <p>2 provide them with the headphones. We have it set up for it</p> <p>3 to read to them, but we do not force them to put the</p> <p>4 headphones on and actually listen to it. That is their</p> <p>5 choice.</p> <p>6 Q Okay. I'm going to let you take a look at this, Stacey.</p> <p>7 I'm guessing it's somewhere around that date in the middle</p> <p>8 of the day --</p> <p>9 <b>A Right.</b></p> <p>10 Q -- before I ask you a question.</p> <p>11 <b>A Okay.</b></p> <p>12 Q Do you have any recollection of what this is talking about?</p> <p>13 <b>A The class that he was in has a no hat rule and so the</b></p> <p>14 <b>teachers can enforce the no hat rule and the school had a no</b></p> <p>15 <b>hat rule written in the rule book at that time. So that</b></p> <p>16 <b>means that they would have been a violation of the teacher's</b></p> <p>17 <b>code of conduct and part of the school's code of conduct</b></p> <p>18 <b>says that insubordination has a consequence.</b></p> <p>19 Q Okay. And down here, what does parent state in response?</p> <p>20 <b>A "His IEP also states he needs same day consequences. After</b></p> <p>21 <b>school isn't an option today."</b></p> <p>22 Q Okay. So she wants same day consequences; right?</p> <p>23 <b>A Yeah. But we didn't have an after school option that day</b></p> <p>24 <b>that that occurred because we didn't have someone for</b></p> <p>25 <b>behaviors. Per the top one where it says "we only have ASD</b></p> <p style="text-align: center;">Page 543</p>
<p>1 Q Okay. You were coordinating everyone's schedules, but you</p> <p>2 didn't have that piece?</p> <p>3 <b>A Yes.</b></p> <p>4 Q Okay. And how does parent respond? Does she propose</p> <p>5 another day?</p> <p>6 <b>A Yes. She does propose another day.</b></p> <p>7 Q Does she also indicate that they're going to be gone</p> <p>8 extensively?</p> <p>9 <b>A Yes. That way we know when they won't be available and when</b></p> <p>10 <b>the student would not be able to be there.</b></p> <p>11 Q Okay. So you could choose days?</p> <p>12 <b>A Yes.</b></p> <p>13 Q Got it. What are you relaying to parent in this text</p> <p>14 message?</p> <p>15 <b>A So that was his NWEA test that was taken on 9/21. He went</b></p> <p>16 <b>up in whatever subject we did first that day. I believe it</b></p> <p>17 <b>was reading or, yeah.</b></p> <p>18 Q What is "rapid guess rate"? Can you explain that to me?</p> <p>19 <b>A Yeah. Rapid guess rate means that a student isn't taking</b></p> <p>20 <b>time to listen to or read through the material that's</b></p> <p>21 <b>presented in NWEA and instead they're just clicking an</b></p> <p>22 <b>answer and going on to the next question.</b></p> <p>23 Q Okay. And would NWEA have been, if it was reading, did he</p> <p>24 read the material or was it read to him?</p> <p>25 <b>A So for reading, because that's an area of need, it's read to</b></p> <p style="text-align: center;">Page 542</p>	<p>1 on certain days of the week," --</p> <p>2 Q Okay.</p> <p>3 <b>A -- we don't -- do not have the staffing to do ASD every day</b></p> <p>4 <b>which is after school detention.</b></p> <p>5 Q Okay. So it simply is not possible to have ASD every day --</p> <p>6 <b>A Yes.</b></p> <p>7 Q -- for the district. Okay. And does parent also at this</p> <p>8 point inform you that any out of school consequence will be,</p> <p>9 and I quote, "damn near impossible"?</p> <p>10 <b>A Yes.</b></p> <p>11 Q Okay. And you understood that to be her saying -- what? --</p> <p>12 don't schedule it? He won't attend? What did you think,</p> <p>13 Stacey?</p> <p>14 <b>A My assumption was that he wouldn't be able to attend any</b></p> <p>15 <b>after school.</b></p> <p>16 Q Okay. All right.</p> <p>17 MS. WALZ: I am done with this exhibit. Your</p> <p>18 Honor, could we take a 10-minute break?</p> <p>19 JUDGE WILSON: Yes. That sounds good. Let's take</p> <p>20 a 10-minute break and we'll reconvene around 10:41. Off the</p> <p>21 record at 10:31.</p> <p>22 (Off the record)</p> <p>23 JUDGE WILSON: All right. We're back on the</p> <p>24 record at 10:43 a.m. And, Ms. Walz, you may proceed with</p> <p>25 your direct.</p> <p style="text-align: center;">Page 544</p>



<p>1 attendance?</p> <p>2 <b>A I am.</b></p> <p>3 Q All right. I want you to take a look at this reading box.</p> <p>4 I got most of it.</p> <p>5 <b>A Okay.</b></p> <p>6 (Witness reviews exhibit)</p> <p>7 <b>A Okay.</b></p> <p>8 Q I think we saw a text earlier about NWEA rushing?</p> <p>9 <b>A Yes.</b></p> <p>10 Q Isn't this the same assessment to the best of your</p> <p>11 knowledge?</p> <p>12 <b>A This is actually the winter assessment. The previous one</b></p> <p>13 <b>would have been the fall assessment. NWEA is done three</b></p> <p>14 <b>times a year: once in the fall, once in the winter, and</b></p> <p>15 <b>once in the spring.</b></p> <p>16 Q And the same thing happened with the ELA one?</p> <p>17 <b>A Yeah; yes.</b></p> <p>18 Q What did you think should happen to prevent that response in</p> <p>19 the testing environment, if anything?</p> <p>20 <b>A For this student, other than encouraging them to slow down,</b></p> <p>21 <b>there wasn't a lot of different ways I could prevent for the</b></p> <p>22 <b>specific assessment them to help get their score higher. If</b></p> <p>23 <b>the student would have slowed down, I'm confident the</b></p> <p>24 <b>student would have had a higher score in previous scores,</b></p> <p>25 <b>through other years had shown this. But it was the</b></p> <p style="text-align: center;">Page 573</p>	<p>1 (Off the record interruption)</p> <p>2 Q Okay.</p> <p>3 <b>A Yeah, so right -- right there. Social work switched to</b></p> <p>4 <b>direct. So if the social work was offering 10 minutes to a</b></p> <p>5 <b>half hour, and it was I believe for once a week.</b></p> <p>6 Q Okay. What are Alternative Education Programs? What is</p> <p>7 this?</p> <p>8 <b>A So that's the way that the state has coded for our resource</b></p> <p>9 <b>room; our special education resource rooms. So a level</b></p> <p>10 <b>three means that they don't need to be in a self-contained</b></p> <p>11 <b>room. The student isn't of a mild to sev- -- or moderate to</b></p> <p>12 <b>severe disability.</b></p> <p>13 Q And this student is not moderate to severe?</p> <p>14 <b>A No.</b></p> <p>15 Q Why is the range so big?</p> <p>16 <b>A To encompass the multiple hours where there is a special ed</b></p> <p>17 <b>teacher co-teaching in the room to encompass the hours of</b></p> <p>18 <b>the students with the special ed teacher in the room</b></p> <p>19 <b>one-on-one. So we ranged it from .5 to 12 at that time</b></p> <p>20 <b>being with me for homeroom every week. It would throw --</b></p> <p>21 <b>would give the student anywhere between two to four hours a</b></p> <p>22 <b>week depending on how long homerooms were. Also, when they</b></p> <p>23 <b>were in the co-taught rooms with me, that would be a two and</b></p> <p>24 <b>a half hour a week time range so that adds up. Any</b></p> <p>25 <b>co-taught room the student was in, that adds up and</b></p> <p style="text-align: center;">Page 575</p>
<p>1 non-desired task resulting in speed.</p> <p>2 Q Okay. And then this section in the "Behavioral," please?</p> <p>3 <b>A Yes. So that is from the social worker. Part of a social</b></p> <p>4 <b>worker's behavioral goals and behavioral need area, they</b></p> <p>5 <b>pull data from the PowerSchool logs showing the different</b></p> <p>6 <b>log entries that are happening to help support areas of need</b></p> <p>7 <b>for behavior.</b></p> <p>8 Q Okay. And here it looks like the social worker writes them</p> <p>9 down into categories; agreed?</p> <p>10 <b>A Yes. That is how they were entered into the PowerSchool log</b></p> <p>11 <b>system.</b></p> <p>12 Q So for 21-22, I understand we're at about the halfway mark</p> <p>13 here, was student receiving social/emotional supports?</p> <p>14 <b>A Yes, they were.</b></p> <p>15 Q Do you know in what form? Was he seeing the social worker</p> <p>16 now?</p> <p>17 <b>A Yes. They were -- this is checking on in person. I believe</b></p> <p>18 <b>at prior to this date they were still on consult because of</b></p> <p>19 <b>the time when they were virtual the students didn't attend.</b></p> <p>20 <b>So it switched from direct service to consult service, so it</b></p> <p>21 <b>was a check in with the student, check in with the parent,</b></p> <p>22 <b>but not frequent meetings.</b></p> <p>23 Q Okay. And then on this IEP you think it may have changed?</p> <p>24 <b>A Yes. I believe it switched to direct services.</b></p> <p>25 Q Okay. Hold on. Let me get down there.</p> <p style="text-align: center;">Page 574</p>	<p>1 increases their time so they have a larger range of time to</p> <p>2 make sure that they have full supports of a special ed</p> <p>3 teacher as needed.</p> <p>4 Q And so if student came to school, he had access to those</p> <p>5 hours?</p> <p>6 <b>A Yup.</b></p> <p>7 Q Got it. Let me just -- and for this last half of eighth</p> <p>8 grade, were you working on a goal with student?</p> <p>9 <b>A Yes.</b></p> <p>10 Q Hold on. Let me get there.</p> <p>11 (Counsel shares exhibit via video)</p> <p>12 Q Is this you?</p> <p>13 <b>A Yes. So to help with the reading and to help improve NWEA</b></p> <p>14 <b>scores and the areas of concern for reading, we had a goal</b></p> <p>15 <b>for informational text. I chose informational text because</b></p> <p>16 <b>that was an area of need on testing, but that was also an</b></p> <p>17 <b>area of interest for the student. He preferred true stories</b></p> <p>18 <b>and fact-based things as opposed to something that was made</b></p> <p>19 <b>up. So we were going to work on reading it and</b></p> <p>20 <b>understanding why the author wrote the work and that also</b></p> <p>21 <b>would work towards helping with his transition. At eighth</b></p> <p>22 <b>grade we do a transition IEP which means we prepare them for</b></p> <p>23 <b>life after high school and start that ball rolling. So the</b></p> <p>24 <b>student wanted to be a heavy machine operator, so we needed</b></p> <p>25 <b>to make sure that they understood why different things, like</b></p> <p style="text-align: center;">Page 576</p>

<p>1 (Counsel shares exhibit via video)</p> <p>2 Q Okay. So if we look in this document, at the very top it</p> <p>3 says that the meeting date was 1/21 of '22. Does that look</p> <p>4 right? Or 1/20, I'm sorry, of '22. Does that look right --</p> <p>5 A Yes.</p> <p>6 Q -- in terms of your recollection?</p> <p>7 A Yes.</p> <p>8 Q Okay. And then it says, the FAPE date was 2/1 of '22. What</p> <p>9 does that mean?</p> <p>10 A So that means that is the date that this IEP is put into</p> <p>11 place. That is the publish date.</p> <p>12 Q Okay. So do you know -- you may not know. Do you know why</p> <p>13 there was about an 11-day difference there?</p> <p>14 A Because of weekends and because of the fact that we had to</p> <p>15 make sure all of, everything was written correctly. So I</p> <p>16 had to go through all of the notes from the IEP meeting and</p> <p>17 update anything from the notes that we had discussed to add</p> <p>18 to the IEP.</p> <p>19 Q Okay. And -- hold on. Let me find what page my next</p> <p>20 question is on. Okay.</p> <p>21 MS. ABDNOUR: So let's scroll down to the bottom</p> <p>22 of page 5, top of page 6, which is where the annual goals</p> <p>23 start.</p> <p>24 A Uh-huh (affirmative).</p> <p>25 Q So under the "Short-Term Objectives" there -- I'm just going</p> <p style="text-align: center;">Page 617</p>	<p>1 end of the first period, we would hope for a two and a half</p> <p>2 percent growth from where he currently was at. So it does</p> <p>3 not list the starting range, but tells you to -- gives you a</p> <p>4 two percent -- two and a half percent growth in this case.</p> <p>5 So when I enter it into my system it doesn't print out with</p> <p>6 that, but those numbers are in that system?</p> <p>7 Q And is that something that you could have added to the</p> <p>8 present levels yourself or is that something it wouldn't</p> <p>9 have allowed you to add there?</p> <p>10 A I -- no, because it's in a different section of the IEP. So</p> <p>11 it's in the IEP, but in the printed out version it doesn't</p> <p>12 show it, but it is in the system in the back end. So that</p> <p>13 information is there, but not in the finalized document that</p> <p>14 they do.</p> <p>15 Q Okay. So the reason I'm asking this is because let's say he</p> <p>16 were to go to another district next week and they saw this</p> <p>17 IEP. Would there be any way from looking at this IEP to</p> <p>18 understand where he was starting at?</p> <p>19 A If they had the progress reports with it, yes.</p> <p>20 Q Okay. And the progress reports would have showed what his</p> <p>21 starting point of 40 percent was?</p> <p>22 A Yes.</p> <p>23 Q Okay. Okay. Let's look now -- hang on a second. Okay.</p> <p>24 MS. ABDNOUR: So we're going to look -- Jacquelyn,</p> <p>25 we're going to be looking at the three different IEPs. But</p> <p style="text-align: center;">Page 619</p>
<p>1 to read it to you. The first short-term objective says,</p> <p>2 "When given an informational text at the student's</p> <p>3 instructional level he will read, collaboratively and</p> <p>4 independently" et cetera with the goal to help him reach his</p> <p>5 postsecondary (sic) goal of being a heavy equipment operator</p> <p>6 in the construction field 42.5 percent by the end of</p> <p>7 reporting period 1. And I'm paraphrasing, so --</p> <p>8 A Yes.</p> <p>9 Q -- I did not read everything. And you had testified with</p> <p>10 Ms. Walz that the reason for that 42.5 percent was because</p> <p>11 at the time that you wrote this he was at a 40 percent level</p> <p>12 of achievement. Am I characterizing your testimony</p> <p>13 correctly?</p> <p>14 A Yes.</p> <p>15 Q Okay. Now, I don't see that 40 percent referenced anywhere</p> <p>16 in the present levels above. Is there a reason that you</p> <p>17 didn't (inaudible) that information in there?</p> <p>18 A So when we -- when we fill out the IEPs, when we use the</p> <p>19 Illuminate system, it puts it -- you put in a range where</p> <p>20 what this is called a benchmark assessment which is how this</p> <p>21 is written. So you put in a range, a starting value for</p> <p>22 where they're at, and an ending range. It'll always for the</p> <p>23 fourth one -- because I do it in quarters which is why</p> <p>24 there's four bullet points -- end with the 80. But so that</p> <p>25 way by the start of this IEP, which was the 2/1 date to the</p> <p style="text-align: center;">Page 618</p>	<p>1 right now let's just take this one off the screen because we</p> <p>2 don't need it.</p> <p>3 Q Okay. So I want to talk about the student's reading levels</p> <p>4 a little bit.</p> <p>5 A Okay.</p> <p>6 Q And one thing that you had testified about was that, you</p> <p>7 know, the NWEA scores were very low, obviously, but that you</p> <p>8 thought he would have gotten higher scores if he had not</p> <p>9 been rushing. Does that sound accurate?</p> <p>10 A Absolutely.</p> <p>11 Q And so what made you think that?</p> <p>12 A Because I've read with the student. I know -- I knew what</p> <p>13 he was capable of. I also know that he had a strong dislike</p> <p>14 of testing, so his goal was generally to get done with the</p> <p>15 test as soon as possible because then he has "him" time</p> <p>16 which is not required of testing.</p> <p>17 Q Why does he dislike testing?</p> <p>18 A Why does any student dislike testing? They just don't. I</p> <p>19 would love to answer that question for you, but I cannot</p> <p>20 tell you why a student dislikes tests. If I could, I would</p> <p>21 be the richest teacher in the entire world.</p> <p>22 Q Do all students dislike tests for the same reasons?</p> <p>23 A No.</p> <p>24 Q Okay. So do you know any particular reasons why this</p> <p>25 student dislikes tests?</p> <p style="text-align: center;">Page 620</p>

1 for that to change?

2 **A Uh-huh; yeah; yeah.**

3 **Q Okay.**

4 MS. ABDNOUR: Let's look at the January 2022 IEP,

5 which is Exhibit 83, Jacquelyn. Okay. And I want to look

6 at that same area there if we can.

7 (Counsel shares exhibit via video)

8 **Q Okay. And was this also an IEP? This was one also that you**

9 **were -- you were a direct part of preparing; correct?**

10 **A Yes.**

11 **Q This January 2022? Okay.**

12 **A Yup. And this one, you had noticed where I said on the**

13 **winter NWEA assessment, because we had just finished it**

14 **right before this IEP, so that was fresh data within a**

15 **couple of days, I believe, based on the date.**

16 **Q Okay.**

17 **A He scored a 189 so it was a significant drop, but that**

18 **significant drop also had impact on how quickly he went**

19 **through that test. That test --**

20 **Q Okay.**

21 **A -- 40 -- I believe that reading has 40 questions on it and**

22 **he did a 75 percent rushing rate on 40 questions. So that's**

23 **less than a minute to 30 seconds roughly per question.**

24 **That's including reading whatever passage is there.**

25 **Q Okay. So was it ever considered at that point to do any**

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1 additional reading testing beyond the NWEA?

2 **A So he has his reading testing that he does during classes.**

3 **We used his assessments for based on his ability in class**

4 **and class work. He could read grade level work. But this**

5 **stuff that was there, it wasn't of interest. If it was of**

6 **interest to him, he was more apt to do the work, more apt to**

7 **do the reading. He could tell you everything about what he**

8 **read. But these NWEA tests are state tests, therefore, it's**

9 **not on an interest of this particular student so he's going**

10 **to get done with it quick because we had it set to read**

11 **aloud for him because he has a reading need, so we have that**

12 **set to read aloud so he can hear it and help with his**

13 **reading and listening comprehension. He chose not to listen**

14 **to the headphones because he didn't like the monotone of the**

15 **computerized recorder. So that -- making that choice, it**

16 **makes it hard to judge your reading comprehension when his**

17 **listening comprehension is higher than his independent**

18 **reading comprehension.**

19 **Q So did you have any idea of what his independent reading**

20 **comprehension was?**

21 **A Yeah, because I've had him read using the San Diego**

22 **Assessment test with me.**

23 **Q Okay.**

24 **A Gives the independent read, smaller passages at different**

25 **grade levels to show where he could read at which is how I**

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1 could gain where he could read and what he could read. I

2 also had him read in class work with me because I was in his

3 language arts class with him. So he would read the story

4 they're reading out loud to me and we would take turns. So

5 I had a very good idea of what his reading levels were.

6 **Q And what did you -- from that other information what -- at**

7 **this point where would you have put him at?**

8 **A For reading -- independent reading level?**

9 **Q Yeah.**

10 **A So I would have put him roughly between a third grade level**

11 **to an eighth grade level depending on the text and his**

12 **interest. It would vary day to day. It's hard to judge**

13 **when a student engages and doesn't engage in it because of**

14 **their interest. So if the test was something interesting to**

15 **him, he would have been closer to grade level. If it was**

16 **not of interest to him, there would have been more a**

17 **struggle because he didn't want to do that particular**

18 **reading.**

19 **Q Okay. And let's talk about the rushing issue with the NWEA**

20 **a little bit more.**

21 **A Uh-huh (affirmative).**

22 **Q What interventions are you aware of for a student who is**

23 **rushing on standardized tests?**

24 **A So when a student rushes and it comes up in the red -- a**

25 **little red flag type situation on NWEA saying "student is**

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1 rushing," I have to unpause their system and re-do it.

2 Because of his rushing rate, any student that I have that

3 has a rushing or that I see a significant drop, I have them

4 retake the test a different day to see if they can do

5 better. However, I don't believe he was able to retake the

6 test and I think it had to do with test windows closing and

7 attendance. I would not -- I'm not 100 percent on that, but

8 to the best of my knowledge there was that time frame. He

9 was absent when our test window was open. It's only open

10 during certain time periods for the district. So if the

11 students are gone after the window closes, we can't retest

12 them.

13 **Q Okay. So the question -- what I was trying to get at was**

14 **what -- what interventions are available for a student who**

15 **is rushing on standardized tests, if any?**

16 **A I mean, I can't force him to slow down. And he can take --**

17 **if we have a resource reading class available, he would take**

18 **a resource reading class. But just to get him to slow down**

19 **and take a test, there is no way for me to mandate that.**

20 MS. ABDNOUR: Jacquelyn, just sent me a message

21 asking if she could stop the screen share. Yeah, let's --

22 you can stop the screen share, Jacquelyn. Thanks. Sorry

23 about that. I didn't mean to interrupt, but I don't want

24 her to have to continue to worry about that.

25 **Q What is your knowledge in terms of generally reasons that**

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37 (Pages 629 to 632)